

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

**EASTMOOR ESTATES RESIDENTS
ASSOCIATION, ET AL.**

VS.

CIVIL ACTION NO. 4:10CV144-WAP-JMV

GLENN MILLER, ET AL.

ORDER

Before the court is a Motion to Consolidate Cases (# 82) filed by the Miller Defendants in this action on August 25, 2011. The Miller Defendants seek an order consolidating this case with *Southern Fire and Casualty Company v. Glenn Miller*, et al, Cause No. 4:11cv00034 (the “second action”). In its Response in Opposition (# 94), Southern Fire and Casualty Company (“Southern Fire”), the plaintiff in the second action, objects to the motion to the extent that the Miller Defendants seek to consolidate the actions for purposes of trial and to the extent that any restrictions placed on discovery in this action would limit it from conducting discovery with regard to issues specific to the second action. However, counsel for the Miller Defendants and Southern Fire have now submitted to the court a proposed agreed order which would, among other things, allow consolidation for discovery purposes only.

First, because this case is currently stayed pending the October 6 joint settlement conference, the court is of the opinion that the motion should be denied without prejudice to the Miller Defendants’ right to re-urge the motion after the stay is lifted. Second, the court is concerned that the proposed order submitted by the parties fails to address potential issues regarding discovery once the actions are consolidated for discovery purposes, especially in light

of the fact that the current scheduling order in this case outlines very specific limitations on discovery allowable to certain classes of parties. These issues will have to be addressed upon the filing of any subsequent motion to consolidate these cases. The parties are advised to be prepared to discuss these issues immediately following the joint settlement conference currently set for October 6, 2011, should settlement negotiations fail. Accordingly,

IT IS ORDERED that the motion to consolidate is hereby DENIED without prejudice.

This, the 16th day of September, 2011.

/s/Jane M. Virden
UNITED STATES MAGISTRATE JUDGE